

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

**ROBYN RENEE ESSEX,**

*et al.,*

**Plaintiffs,**

**v.**

**KRIS W. KOBACH,**

**Kansas Secretary of State,**

**Defendant,**

**and**

**THE STATE OF KANSAS *ex rel.***

**DEREK SCHMIDT, Attorney**

**General of Kansas,**

**Intervenor / Defendant.**

**CIVIL ACTION**

**Case No. 12-CV-4046-KHV-JWL**

**ANSWER OF INTERVENOR / DEFENDANT STATE OF KANSAS,  
*ex rel.* DEREK SCHMIDT ATTORNEY GENERAL TO COMPLAINT OF  
INTERVENORS / PLAINTIFFS OWENS, HENDERSON, SHANER AND WIMMER**

COMES NOW Intervenor / Defendant State of Kansas, on relation of Kansas Attorney General Derek Schmidt [State], by and through the undersigned counsel of record, and Answers the Complaint of Intervenor / Plaintiffs Owens, Henderson, Shaner and Wimmer.

1. Complaint paragraphs 1, 2, 4, 35, 36, 37, 38, 39 and 40 allege facts for which this answering Defendant lacks sufficient knowledge and information upon which to form a belief as to their truth or falsity. Therefore, they are denied.

2. Complaint paragraphs 3, 5, 6, 7, 8, 9, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 33, 34, 42, 43, 44, 45, 47, 48, 53, 54, 56, 58 are admitted.

3. Complaint paragraph 11: The first two sentences are admitted. The third sentence is denied. The Legislature would act again only should the Kansas Supreme Court find the reapportionment legislation to be invalid.

4. Complaint paragraphs 31, 46, 52, 57 and 59 require no response.

5. Complaint paragraph 41 is denied merely to state that unless a *proper authority*, such as this federal panel or the Kansas Supreme Court, reapportions the existing districts, any election held based on current districts would be unconstitutional.

6. Complaint paragraphs 49, 50, 51 and 55 are denied. This federal panel or the Kansas Supreme Court could still prevent any voting power from being diluted in the 2012 elections. No deprivation of constitutional rights has occurred as no 2012 election based on the old districts' composition has yet occurred. Due process violations may yet be prevented should this federal panel order constitutional district maps for the 2012 primary and general elections. No Kansas voter's right to a constitutional election has yet been violated.

7. Complaint paragraphs 60 and 61 are denied. No deprivation of any voting right has yet occurred. Any claim for damage is not yet ripe as it is only a possibility in the remote event that both the federal panel and the Kansas Supreme Court fail to act following the Legislature's May 20, 2012 adjournment.

8. Any allegation not expressly addressed is hereby denied.

## **PRAYER FOR RELIEF**

WHEREFORE, Intervenor the State of Kansas, on the relation of Attorney General Derek Schmidt, prays the Court to order the following relief:

1. Pursuant to 28 U.S.C. § 2284(a), convene a three-judge panel to adjudicate this matter;
2. Issue a permanent injunction and judgment decreeing that the plan of legislative apportionment established in 2002 by the Kansas Legislature in Chapter 4 of the Kansas Statutes may not hereafter be used as a valid plan of legislative apportionment, congressional apportionment or state board of education apportionment;
3. Issue an order including a valid plan of legislative reapportionment, congressional reapportionment and state board of education reapportionment with a level of deviation that is clearly within the parameters of the United States Constitution and United States Supreme Court case law;
4. Hold in abeyance consideration of any award of attorneys fees or costs pending further proceedings on this issue; and
5. Grant such other and further relief as this Court deems just and equitable.

Respectfully submitted,

OFFICE OF ATTORNEY GENERAL  
DEREK SCHMIDT

s/ Jeffrey A. Chanay

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### **CERTIFICATE OF SERVICE**

I hereby certify that on May 24, 2012, I electronically filed the foregoing Answer with the clerk of the court by using CM/ECF system which will send a notice of electronic filing to all counsel of record.

s/ Jeffrey A. Chanay

Jeffrey A. Chanay

Deputy Attorney General, Civil Litigation Division